CIVIL WRIT JURISDICTION CASE No.7583 OF 1990

SHYAM NARAIN TIWARI, son of late Balak Swami Tiwari, resident of village – Khorhara, Police Station – Ramgarh, District – Rohtas, (Sasaram).

---------- Petitioner

Versus

1. The State of Bihar.
2. The Director of Consolidation, Bihar, Patna.
3. The Deputy Director of Consolidation, Rohtas, (Sasaram)
4. The Consolidation Officer, Ramgarh, Rohtas.
5. The Anchal Adhikari, Ramgarh, At & Post Office – Ramgarh, District – Rohtas.
6. Sri Manoj Kumar Srivastava, District Magistrate, Collector, Rohtas.

---------- Respondents.

For The Petitioner : Mr. K. N. Chaubey, Sr. Adv.
Mr. S. N. Pathak, Adv.
Mr. Ambuj Chaubey, Adv.

For The Respondent : Mr. Ram Bilash Mahto, A.A.G. 8.
Mr. Ramadhar Tiwari, J.C. to A.A.G. 8

P R E S E N T

THE HON'BLE MR. JUSTICE AJAY KUMAR TRIPATHI

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A. K. Tripathi, J. Heard learned Senior counsel for the petitioner and learned A.A.G. 8 for the State.

Petitioner has challenged the order dated 13.08.1990, contained in Annexure – 3, as well as quashing of the entire proceeding in appeal no. 417/1990-91 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (hereinafter referred to as the 'Act').

Submission made at the Bar is that after the final publication and confirmation contemplated under Section 10(6) of the Act, there was no occasion for the Assistant Director, Consolidation at Rohtas to entertain a belated appeal filed on behalf of the Circle Officer by condoning the delay unilaterally and thereafter deciding the appeal.

Contention is that the Assistant Director, Consolidation

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had no authority under law to entertain such an appeal especially in the given facts and the background under which the said appellate power has been invoked.

Learned Additional Advocate General has not been able to satisfy the Court in the given background to the legal provisions contained in the Act. If the authority in question was of the opinion that a serious error had been committed by the Circle Officer concerned, the matter could have been raised at the level of revisional authority based on verification of the record which power is not disputed by the learned senior counsel for the petitioner.

In view of the limited contention of the issue, Annexure – 3 is quashed, writ application is allowed. However, liberty is given to the respondents to take appropriate steps before appropriate forum if they are not satisfied with the decision which has been rendered by the Consolidation Officer contained in Annexure – 1 in this regard.

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Patna High Court
The 16th Day of
December, 2008,
NAFR/AFR,
Rajeev/

(Ajay Kumar Tripathi, J.)